

REMARKS

Claims 1-12 and 21-26 are pending in the application.

Objection to Claim 21

The Examiner has objected to claim 21 because he feels that the shelf element recited in claim 21 should not be recited as a separate element from the lower panel. In response, Applicant has amended claim 21 in a manner which, it believes, should remove the objection.

Rejection of Claims 1, 2, 5, 7, 10, 12, 21, and 25 under 35 U.S.C. §102(b) over Turner

Claims 1, 2, 5, 7, 10, 12, 21, and 25 stand rejected as being anticipated by the Turner patent (U.S. Patent No. 2,356,957). The Examiner considers Turner to show a burial container capable of containing a body and having a container body 101 with four side panels defining an enclosure, a top opening through which a body may be placed, and a removable lid 102. He also considers Turner to show a lower panel having an opening 16 capable of permitting communication of earth into the enclosure after the valve/seal 17/18 is degraded.

Applicant traverses the rejection. Independent claims 1 and 7 recite a burial container with a lower panel having an "opening formed therein to permit communication of earth into the enclosure." At least this element is not disclosed or suggested by Turner. Turner's arrangement features four openings 16 that are each approximately 2 inches in diameter. Turner, col. 3, lines 3-4. Nowhere does Turner state or imply that earth is communicated through these openings or that earth is capable of being communicated through them into the enclosure of the container.

Applicant submits that even when the valve/seal 17/18 is degraded, as is Turner's intention, it would still appear to be effective to prevent entry of fluids or solids into the enclosure. Turner uses:

... a valve structure illustrated generally at 17, and in the present embodiment of the invention, consisting of a disc of thin iron or the like which will rust or disintegrate fairly rapidly so that after a relatively short period of time this closure is perforated by rust or disintegration and any liquids collecting inside the vault will drain off.

Turner, col. 2, lines 32-39. Thus, it appears that, while perforated, portions of the valve structure 17 remain in place even after the valve is degraded. Additionally, the valve 17 includes a domed center portion 171 that would appear to further block the entry of earth or other materials into the enclosure upwardly through the openings 16 once past the initial portions of valve 17. See Turner, Figures 2, 4. There is nothing in Turner's description that indicates that this domed center portion 171 will erode away. It is, in fact, an object of Turner's invention to prevent the entry of materials, such as water, into the enclosure even after the valve degrades. Specifically, Turner writes:

Another important object of my invention is to provide means to keep water out of the vault while the casket is being lowered into the vault and the top is fitted into place and sealed, but in which one or more drains are caused to open up at the bottom of the vault when condensate and body liquids collect after the vault has been sealed and the grave covered over, to thus permit the escape and drainage of these liquids without permitting the entrance of ground water into the vault.

Turner, col. 1, line 48 - col. 2, line 3. (emphasis added).

Applicant further submits that it would not be obvious to modify Turner's burial container to include an opening in the lower panel to permit communication of earth into the enclosure since doing so would destroy the primary intended purpose of Turner's burial vault – to keep moisture out of the enclosure. See Turner, col. 1, lines 48-49.

Independent claim 21, as amended herein, recites a burial container having a lower panel with an opening that is shaped and sized “to permit direct communication between a body in the enclosure and earth beneath the container body.” This amendment is supported by the specification at least at p. 6, paragraph [0022] and Figure 7. Applicant points out that Turner’s container does not permit direct communication between a body in the enclosure and earth beneath the container because the lower panel of Turner’s container prevents such communication. Claims 21 and 25 should be allowable at least because this element is missing from Turner and is not suggested by it.

Rejection of Claims 3, 9, and 24 under 35 U.S.C. §103(a) over Turner and Patterson et al.

Claims 3, 9, and 24 stand rejected for obviousness over a combination of the Turner patent and the Patterson et al. patent. The Examiner believes that Turner teaches the claimed invention except for lifting eyes for the removable lid. He finds, however, that Patterson teaches the use of lifting eyes for a burial container lid. Therefore, he concludes that it would have been obvious to one of skill in the art to have modified Turner’s container to include lifting eyes, as taught by Patterson.

Applicant submits that claims 3, 9, and 24 should be allowable at least as depending from allowable base claims 1, 7, and 21, respectively.

Rejection of Claim 4 under 35 U.S.C. §103(a) over Turner, Patterson et al., and Gillespie et al.

Claim 4 stands rejected for obviousness over a combination of the Turner and Patterson references and further in view of the Gillespie et al. patent. The Examiner considers Turner/Patterson to teach the claimed invention with the exception of the use of stainless steel to form the lifting eyes. He contends, however, that Gillespie teaches

the use of a stainless steel lifting eye for use in a corrosive environment. Therefore, he concludes that it would have been obvious to further modify the device of Turner/Patterson to use stainless steel, as taught by Gillespie.

Applicant submits that claim 4 should be allowable at least as depending from an allowable base claim.

Rejection of Claims 6, 8, and 23 under 35 U.S.C. §103(a) over Turner and Trzesnewski

Claims 6, 8, and 23 have been rejected for obviousness over a combination of Turner and the Trzesnewski patent. The Examiner considers Turner to disclose the claimed invention with the exception of the use of steel reinforcement to enhance the structural integrity of the burial container. He finds that Trzesnewski discloses a burial container wherein the container body 10-14 and the lid 30 are made from steel reinforced concrete. Therefore, he believes that it would have been obvious to one of skill in the art to have modified the device of Turner to use steel reinforcement, as taught by Trzesnewski.

Applicant submits that claims 6, 8, and 23 should be allowable at least as depending from allowable base claims 1, 7 and 21.

Rejection of Claims 11 and 26 under 35 U.S.C. § 103(a) over Turner and Christensen

Claims 11 and 26 have been rejected for obviousness over a combination of Turner with the Christensen reference. The Examiner contends that Turner discloses the claimed invention with the exception of an indentation in the lid for weight reduction. He finds Christensen, however, to teach an indentation in a burial container lid. Thus, he concludes that it would have been obvious to one of skill in the art to have modified Turner's container to include an indentation in the lid for weight reduction.

Applicant incorporates here the arguments made above with regard to the inability of Turner to anticipate or render obvious the subject matter of claims 7 and 21. Applicant submits that claims 11 and 26 should be allowable at least as depending from these allowable base claims.

Respectfully submitted,


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